

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

KENNETH MYERS,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:17-CV-122
(GROH)**

GENERAL MOTORS,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Currently pending before the Court is a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Robert W. Trumble. ECF No. 27. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of an R&R. On October 15, 2018, Magistrate Judge Trumble issued his R&R, recommending that this Court dismiss the Plaintiff’s amended complaint without prejudice and deny as moot his application to proceed *in forma pauperis*.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a plaintiff’s right to appeal this Court’s order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Moreover, “[w]hen a party

does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, *de novo* review is unnecessary.” Green v. Rubenstein, 644 F. Supp. 2d 723, 730 (S.D. W. Va. 2009) (citing Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)).

Pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Trumble’s R&R were due within fourteen days after being served with a copy of the same. The R&R was sent to the Plaintiff by certified mail, return receipt requested, on October 15, 2018. ECF No. 27. The Plaintiff accepted service on October 18, 2018. ECF No. 28. The Plaintiff filed his objections on October 25, 2018. ECF No. 30. However, the Plaintiff did not make any specific objections. Rather, he reiterated his amended complaint and averred that he “stated a claim [upon] which relief can be granted.” ECF No. 30 at 1. Accordingly, without any specific objections, *de novo* review is waived.

Nevertheless, upon review, the Court finds that Magistrate Judge Trumble correctly concluded that the Plaintiff fails to state a claim upon which relief may be granted. In his amended complaint [ECF No. 25], the Plaintiff alleges that he was driving home from work when “suddenly right in the middle of the road, the car caught on [fire].” ECF No. 25. This is the sole fact upon which the Plaintiff bases his case. Consequently, there is insufficient factual content to allow the Court to “draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

Therefore, upon careful review and finding no clear error, the Court **ORDERS** that Magistrate Judge Trumble’s Report and Recommendation [ECF No. 27] is **ADOPTED** for the reasons more fully stated therein. The Plaintiff’s Amended Complaint [ECF No. 25]

is **DISMISSED WITHOUT PREJUDICE** and the Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [ECF No. 5] is **DENIED AS MOOT**.

The Clerk is **DIRECTED** to strike this case from the Court's active docket and transmit a copy of this Order to the *pro se* Plaintiff by certified mail, return receipt requested.

DATED: October 29, 2018



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE